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Congress, } HOUSE OF REPRESENTATIVES. { Report
t Session. } { No. 79.

UNITED STATES COURTS IN ARIZONA.

September 22, 1913.—Referred to the House Calendar and ordered to be printed.

Mr. Webb, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany S. 99.]

The Committee on the Judiciary, having had under consideration the bill (S. 99) fixing the times and places for holding the district court for the district of Arizona, report the same back with the recommendation that the bill be amended as follows, and that as amended the bill do pass:

Striko out all of section 2 down to and including the word "December" in line 11, page 1, and insert in lieu thereof the following:

Sec. 2. That terms of the district court shall be held in Tucson on the first Mondays in May and November; at Phoenix on the first Mondays in April and October; at Prescott on the first Mondays in March and September, and at Globe on the first Mondays in June and December.

This bill, which passed the Senate May 5, 1913, seeks to organize the Federal judiciary system for the State of Arizona. Your committee is of opinion that it proposes proper legislation. The amendment, which is recommended by your committee, involves changes in the times and places of holding the United States district court which are recommended by the judge of the United States District Court for Arizona and agreed upon by the bar and others interested. The merits of the bill and the reason for the amendment are fully set forth in a letter addressed by the judge to the Attorney General under date of September 6, 1913, which has been transmitted to the chairman of your committee.

Department of Justice,
Office of the Attorney General,
Washington, D. C., September 19, 1913.

Hon. H. D. Clayton,
Chairman Judiciary Committee, House of Representatives.

My Dear Mr. Chairman: Please permit me to acknowledge the receipt of your letter of September 9 inclosing copy of S. 99 and asking for any comment or criticism which I might deem appropriate to make thereon.

This whole situation is fully reviewed and considered in a letter written to the department at its request for his views on the subject, by the present judge of the

Monograph

United States District Court for the District of Arizona, a copy of which is hereto attached.

It would seem from the considerations presented in this letter and from information received by the department from other sources that the public interest would be better served by making certain changes in S. 99, and I respectfully recommend that the same be amended as follows:

Amend by striking out all of section 2 down to and including the word "December" in line 11, page 1, and insert in lieu thereof the following:

"SEC. 2. That terms of the district court shall be held in Tucson on the first Mondays in May and November; at Phoenix on the first Mondays in April and October; at Prescott on the first Mondays in March and September, and at Globe on the first Mondays in June and December."

All of which is respectfully submitted.

Most truly, yours,

J. C. MCREYNOLDS,
Attorney General.

SEPTEMBER 6, 1913.

The ATTORNEY GENERAL
Department of Justice, Washington, D. C.

MY DEAR SIR: Complying with the request of Mr. Graham, Assistant Attorney General, that I write the Department of Justice in regard to the bill now pending before the Judiciary Committee of the House, fixing the times and places of holding district court for the district of Arizona, I beg to submit the following report:

Arizona is a very large State and is at present inadequately provided with railroad facilities for reaching Phoenix, the capital and place designated in the enabling act for holding the United States district court. The State is traversed from east to west by two parallel lines of railroad, the Santa Fe in the north and the Southern Pacific in the south. A branch line of the Santa Fe extends southward from Ash Fork, through Prescott, the principal town in the northern part of the State, to Phoenix. A branch line of the Southern Pacific extends from Maricopa Station, on the main line, northward to Phoenix. From the eastern central portion of the State Phoenix can be reached only by railroad by taking the Arizona Eastern Railroad, which extends from Globe, in Gila County, to Bowie on the main line of the Southern Pacific, and there taking the Southern Pacific to Maricopa, passing thus through Tucson on the way to Maricopa and at Maricopa taking the branch line of the Southern Pacific, to Phoenix; or by taking the New Mexico & Arizona Railroad, which runs from Clifton and Morenci, in Greenlee County, to Lordsburg, N. Mex., on the main line of the Southern Pacific, there taking the Southern Pacific through Tucson to Maricopa, and there taking the branch line of the Southern Pacific to Phoenix. The El Paso & Southwestern Railroad, which is a branch line of the Rock Island system, extends from El Paso, Tex., through Douglas and Bisbee, in Cochise County, Ariz., to Tucson, the present terminus of the line. The Tucson & Nogales Railroad, a branch line of the Southern Pacific, extends from Tucson southward to Nogales, Santa Cruz County, Ariz., and thence into the State of Sonora, Mexico, to Guaymas, and thence southward, its ultimate destination to be the City of Mexico, the road in Mexico being known as the West Coast Line.

From this statement it appears that in order to reach Phoenix by railroad from the northern tier of counties of the State it is necessary to go by way of Prescott, over the Santa Fe road. The distance from Prescott to Phoenix by railroad is 196 miles.

To reach Phoenix by rail from any of the eastern, central, or southern counties of he State, it is necessary to pass through Tucson, which is 122 miles from Phoenix.

Phoenix is reached by rail from Yuma County over the Southern Pacific main and branch lines from Yuma to Maricopa and Phoenix.

As above stated, under the enabling act, Phoenix is the sole place designated for holding the United States District Court for Arizona. There are two terms of the court there each year, the April and October terms, beginning on the first Mondays of April and October, respectively. At the last two terms of the court there were approximately 150 criminal cases on the calendar at each term. Of these 150 cases about one-third were cases originating at Tucson, and one-third were cases originating at Globe. Fully one-third of the witnesses at these terms of court were brought from Tucson, and one-third were brought from Globe, at great cost to the Government. The grand jurors and trial jurors were summoned from all parts of the State, many of them from remote places, at large cost to the United States.

If the terms of the court were held in the larger towns in the sections of the State where the business of the court originates, a large saving to the Government would result in the mileage and per diems of the jurors and witnesses and in the transportation of prisoners. Thus, in cases originating in Tucson, the trial of these cases in

Tucson would result in a saving of $12.50 for each juror, witness, and defendant. In cases originating in Globe, which is 360 miles from Phoenix, and tried in Globe, there would be a saving of $36 in mileage alone for each juror, witness, and prisoner, while there would also be a saving of two per diems for each of such witnesses and jurors. In cases arising at Prescott, or points north, east, and west of Prescott, which could only reach Phoenix by rail by passing through Prescott, there would be a saving of $19.60 for each juror, witness, and prisoner to be transported, for mileage alone, leaving out of view any saving in per diems, which would also be considerable.

To further illustrate this idea, I will say that from data furnished me by the present United States marshal, Mr. Overlock, I find that for the October term of the court, 1912, held at Phoenix, the mileage and per diem of jurors amounted to $7,000 and the mileage and per diem of witnesses amounted to $19,500, making a total of $26,500, while for the October term, 1911, of the court sitting at Tucson, Globe, Prescott, Phoenix, and Tombstone, the jurisdiction of the United States district court then being exercised by the district courts of the five judicial districts of the Territory of Arizona, the mileage and per diem of jurors was $8,300 and the mileage and per diem of witnesses was $9,500, making a total of $17,800, thus showing a net saving of $8,700 on these two items at one term of the court, held at the same season in two successive years.

In view of these facts, to say nothing of the expense necessarily incurred by those who have cases pending in court and the expenses of the transportation of prisoners from the place of residence to the place of trial, I have come to the conclusion that terms of court should be held at the following places, to wit, Prescott, Phoenix, Tucson, and Globe. I do not think that the amount of business at present coming before the court would justify the keeping of a clerk's office at each of these places, nor do I believe that the fees now collected by the clerk of the court are sufficient to enable him to pay and keep a deputy at each of these places and have left a fair compensation for himself. I would suggest that for the present and until the business before the court becomes of sufficient volume to demand a change, that the clerk be required to keep an office and a deputy at Phoenix and an office and a deputy at Tucson; that separate records be kept in the office at Phoenix of cases arising in the counties of Maricopa, Yuma, and Pinal, and a separate record of the cases arising in the counties of Mohave, Coconino, Navajo, Apache, and Yavapai, so that when necessity requires the separate records for these latter counties may be removed to the office to be then opened at Prescott; that separate records be kept in the office at Tucson of cases arising in the counties of Pima, Santa Cruz, and Cochise, and separate records of the cases arising in the counties of Graham, Greenlee, and Gila, so that the records of the cases arising in the latter counties may be removed to the clerk's office at Globe, when necessity shall require an office to be opened there.

I would further suggest that the times of holding the terms of court be fixed as follows: At Phoenix, first Monday in April and first Monday in October; at Prescott, first Monday in March and first Monday in September; at Globe, first Monday in June and first Monday in December; at Tucson, first Monday in May and first Monday in November.

I would also suggest that the State of Arizona should, for the present, constitute but one division with power to the judge to transfer cases from one place of holding court to another as the interests of justice and of the litigants may require, as is now provided by the Senate substitute bill, at present before the Judiciary Committee of the House.

Perhaps I should add that I do not think it advisable, under present conditions, to designate Tombstone as one of the places for holding the court, as the number of cases arising in Cochise County, of which Tombstone is the county seat, is at present very small, and Tombstone is not easy of access from Douglas, Bisbee, and Naco, the principal towns in that county, which can reach Tucson almost as readily, over the El Paso & Southwestern Railroad, as they can reach Tombstone.

I am informed that more than two-thirds of the criminal cases and more than one-half of the civil cases come from Tucson, Globe, and the southern and southeastern parts of the State, and the witnesses and prisoners in criminal cases, and all litigants and jurors, have to start from or pass through Tucson to reach Phoenix. By holding court at Tucson, the mileage and per diem in going to and returning from Phoenix, which would amount to a large sum of money, would be saved. Tucson, as shown by the last census, is the largest city in Arizona, and, as above stated, is on the main line of the Southern Pacific Railroad, and also the terminus of the El Paso & Southwestern Railroad, and of the Tucson & Nogales (West Coast) Railroad. The Government recently has acquired a site in Tucson for a Federal building.

Very respectfully,

W. H. Sawtelle,
Judge of the District Court.

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